

CLINTON COUNTY BOARD OF ADJUSTMENT MINUTES

CLINTON COUNTY BOARD OF ADJUSTMENT
NOVEMBER 15, 2011
CLINTON COUNTY ANNEX, DEWITT

DALE MEIER:	-PRESENT	GAIL THOMAS	-PRESENT
EARL BURKEN:	-PRESENT		
JOHN TUTHILL:	-PRESENT		
MARTY JAHN:	-PRESENT		
TOM DROSTE:	-PRESENT		

Chairman Meier called the meeting to order at 7:31 p.m. Roll call showed 5 members present. Minutes of the June 14, 2011 meeting were approved as sent.

AGENDA ITEM IV-PUBLIC HEARING-SPECIAL EXCEPTION-TWIN STATE, INC. SPECIAL EXCEPTION

Others present:

Chairman Dale Meier called the Public Hearing to order at 7:30 p.m. The Public Hearing was called to consider an application for a Special Exception – Agricultural Service Business to permit the applicant to expand an existing Agricultural Service Business (ASB) as permitted by the Clinton County Zoning Ordinance within the A-1 Zoning District (3.6.1 D.1.). The location of the requested ASB is an enlargement of the existing site of Liqui-grow at 2722 218th St, DeWitt, in the SE ¼ of the NW ¼ of Section 36 Township 82 Range 3 of the 5th P.M., Clinton County, Iowa. All fees have been paid and notice was properly published.

Scott Tinsman presented the application. Twin State Inc has purchased land that was previously leased as well as additional acres for a total site size of approximately 22.34 acres.

Tinsman discussed the expansion. Thomas said that an Agricultural Service Business plant is permitted as a Special Exception use in the A-1 Zoning District. Requiring a Special Exception application ensures that the Board of Adjustment has reviewed the particulars of the intended use. Thomas said that in the process of processing the application she reviewed the history of the site and the previous Special Exception that was granted in 2006.

Members of the Board asked for comments on the site plan. Tinsman discussed the plan and stated that the setbacks will be observed. There was discussion of the history of the business since 1967 and the last expansion of the business in 2007. Tuthill suggested that the legal description for the entirety of the Twin State site should be stated for the Special Exception.

Members of the Board asked about the fact that construction on the site appears to be underway. Thomas stated that the land is still owned by the farmer, who does not need a permit to construct a building. The arrangement between that farmer and Twin State is at Twin State risk, pending Board consideration of the plan to expand the special exception.

Thomas said she had received no inquiries from property owners notified within 500 feet of the site prior to the Hearing. No opposition to this plan has been received.

Meier asked if there were any more questions or comments.

Motion: Droste made a motion to adjourn the Public Hearing. Burken seconded the motion.

Roll call: Droste: -Yes

Tuthill: -Yes
Jahn: -Yes
Burken: -Yes
Meier: -Yes

Motion carried 5-0.

Public Hearing closed at 7:53 p.m.

Preliminary Criteria review of Section 9.3.4.F for Twin State Inc. Special Exception application.

- 1. The proposed use at the specified location is consistent with the policies embodied in the adopted Master Plan. This use is consistent with policies in the Master Plan. The Plan allows for a variety of uses within the areas designated as Agricultural that are consistent with the orderly development of the County.**
- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations and complies with the requirements of the zoning ordinance. Twin State has been operating a fertilizer business on the adjacent property since 1967 and has used it for an Agricultural Service business purposes until now. This site is zoned A-1. Agricultural service businesses involving storage, distribution or sale of agricultural lime, agricultural chemicals or fertilizers are permitted as a Special Exception use within the A-1 Zoning District. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations and complies with the requirements of the zoning ordinance if approved as an Agricultural Service Business.**
- 3. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity. This business has been conducted on the current site for more than 40 years. The planned construction of an additional building will be conducted in compliance with current construction and safety standards. Construction of additional facilities is planned to be no closer than 500' to the nearest home. Based on the conduct of the existing business and the description of the proposed new facilities, approval of this application should not result in material damage or prejudice to other property.**
- 4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods. These improvements or modifications may include, but shall not be limited to, the placement or orientation of buildings and entryways, parking areas, buffer yards, and the addition of landscaping, walls or both, to ameliorate such impacts. In addition to continuing the existing business, the immediate intent is to purchase the leased land and additional acres to expand the business and to construct an additional building. The proposed new building, and other future construction**

at this site, would be difficult to visually hide from neighboring properties due to their size and the existing buildings already in place. Noise generated by this use is normally likely to be of minimal volume off site. The proposed use is not incompatible with the existing nearby uses. No on-site or off-site improvements are necessary beyond those proposed by the applicant.

5. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous to the existing and anticipated traffic in the neighborhood. **This business is located on 218th Street near Hwy 61. No new road access is anticipated as part of this business expansion. The proposed use will not generate traffic hazardous to existing and anticipated traffic in the neighborhood.**

Motion: Jahn made a motion to approve 2011-03 approving the application for a Special Exception for Twin State Inc., with the following conditions:

The Special Exception shall apply to all the land that will be under the ownership of Twin State Inc. at this site address, approximately 22.337 acres.

Burken seconded the motion.

Roll call:	Droste:	-Yes
	Tuthill:	-Yes
	Jahn:	-Yes
	Burken:	-Yes
	Meier:	-Yes

Motion carried 4-0.

AGENDA ITEM VI – OTHER BUSINESS

Application to consider a setback variance for Wendling Quarry to demolish and reconstruct a retaining wall along 291st Street.

The Public Hearing was called to order at 7:59.

Meier read the legal description as follows: Wendling Quarries PO Box 230, DeWitt Iowa, Camanche Township; NW ¼ of Section 12 Township 80N Range 5E. Tuthill was excused from the Board to represent the applicant, and explained the details of the block wall which will be built.

Members of the Board asked about the general amount of traffic observed on the road. Tuthill explained that if the road were to be widened or improved at some point, the block wall could be disassembled and moved at that time. The applicant believes the new wall will be an improvement to the appearance of the area which serves as the access point for the Rock Creek Marina and the Eco-Tourism Center.

Notices have been properly published and fees paid. No objections to the project have been received in the Zoning office.

Public hearing was closed at 8:12.

The Board reviewed the Criteria of Section 9.3.5.F for the Wendling Quarry Variance application.

- 1. The variance requested arises from a condition or conditions which are unique to the property in question and which are not ordinarily found in the same zone or district; that the condition was not created by an action or actions of the owner or applicant; and that the condition existed prior to enactment of regulations creating the need for the variance. This is the site of a quarry that is operating under a Special Exception in an AR-1 zoning district. The surrounding properties are agricultural. The topography in the area is relatively level. The existing retaining wall has been in place for many decades.**
- 2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. The property adjacent to this site on all sides is agricultural. The granting of this variance to allow construction of a retaining wall within the side property line will not adversely affect the rights of the adjacent property owners. The wall will not be constructed within the road Right of way.**
- 3. The strict application of the provisions of this ordinance would constitute unnecessary hardship upon the property owner. The intent is to build the new retaining wall inside the east property line but with a reduced setback. This will allow the retention of the current conveying system and allow the movement of trucks within the yard. Due to these obstacles, the strict application of the provisions of this ordinance for the requested retaining wall construction would constitute unnecessary hardship upon the property owner.**
- 4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The variance as requested will not adversely affect these issues.**
- 5. The granting of the variance will not conflict with the general spirit and intent of this ordinance. The required side yard setback for the AR-1 Zoning District is 15 feet. The Zoning Ordinance requirement for building setback is intended to provide for open space and to avoid undue congestion of land. The adjoining property is farmland. This application for placement of a new retaining wall at this location does not conflict with the general spirit and intent of the ordinance.**
- 6. The granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. Non-conforming use of neighboring lands, structures or buildings shall not be considered grounds for issuance of a variance. The variance is requested due to the conditions at the site, therefore the requested variance will not grant a special privilege to this applicant.**
- 7. The variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure. Due to the location of the existing conveying system and existing wall, the requested variance is the minimum necessary accommodation to make reasonable use of the structures.**

Other Conditions or limitations below were imposed on the application: ☒ YES NO

CONDITION: Wendling Quarry will remove the blocks if the County Engineer determines that is necessary in the future, if any widening or improvements are made to 291st Street adjacent to the Quarry.

Motion: Droste made a motion to approve 2011-04 approving the application for a Special Exception application of Wendling Quarry, Jahn seconded the motion.

Roll call:	Droste:	Yes
	Tuthill:	Abstain
	Jahn:	Yes
	Burken:	Yes
	Meier:	Yes

Motion carried 4-0

Motion was made by Jahn to start the BOA meetings at 7pm. Seconded by Droste, Motion carried 5-0.

With no further business, the meeting was adjourned at 8:21 p.m.

Respectfully submitted,

Clinton County Zoning Administrator